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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,536	01/31/2005	Pascal Bons	255582US2PCT	5673
22850	7590	03/05/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
GYORFI, THOMAS A				
ART UNIT		PAPER NUMBER		
2435				
NOTIFICATION DATE		DELIVERY MODE		
03/05/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

# Office Action Summary

## Application No.

10/502,536

## Applicant(s)

BONS ET AL.

## Examiner

Thomas Gyorfi

## Art Unit

2435

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 35-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35, 36, 41-46, 49 and 50 is/are rejected.
- 7) ☒ Claim(s) 37-40, 47 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 35-50 remain for examination. The correspondence filed 12/9/08 cancelled claims 17-34 and added claims 35-50.

### ***Response to Arguments***

2. In response to the Office Action of 9/9/08, it is observed that Applicant has presented new claims that are substantially similar to those previously presented, but also incorporating the limitations of former claim 20 which the Examiner had indicated as containing allowable subject matter. However, on closer examination, it is observed that the new independent claims recite "a dynamic data structure representing a logical control channel, comprising at least one of the following fields"; this is broader in scope than what was intended by the Examiner. Although the Examiner was correct to point out that the Wasilewski patents do not disclose a data structure comprising all three fields, it is observed that the '530 patent clearly discloses at least the first field comprising the logical channel (the logical channel number field of the logical channel table: col. 6, lines 40-60; and col. 7, lines 35-40). In plainer terms, the claim(s) as currently written encompass the ability to filter the various packets on the transport stream merely by identifying which channel the user has input via remote control to the set-top box and displaying only the content for that channel; it should be self-evident that the Wasilewski invention(s) – if not television tuners in general - are capable of doing at least that much. It is additionally observed that the "version number" field of the data structure from the '530 patent could also be construed as the claimed second

field, when read in light of the instant specification (page 5, lines 18-23; and page 12, lines 1-6).

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 35, 36, 41-46, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,252,964 in view of U.S. Patent 6,215,530 (collectively hereinafter, "Wasilewski").

Regarding claim 35:

Wasilewski discloses a method for transmitting entitlement management messages controlling access to data and/or services to be provided to a plurality of terminals in a data exchange network, comprising: at transmission, defining a set of EMM type messages as a function of at least one criterion representative of a type of data and/or services provided ('964: col. 20, lines 10-27; cf. the ETSI standard reference enclosed herein); defining a plurality of types of logical transmission channels and associating at least one parameter to each type of channel to inform terminals of the EMM types transmitting on each described logical channel ('530: col. 6, lines 25-65); assigning at least one channel among the defined logical transmission channels, to each EMM message type ('530: *Ibid*); transmitting the parameter and the logical channels to each terminal ('530: col. 5, lines 1-25); multiplexing the logical transmission

channels into a same data stream ('964: col. 6, lines 20-25; cf. '530, e.g. col. 1, lines 30-50); and transmitting the data stream to terminals ('530: col. 5, lines 1-25); and at reception, each terminal filtering incoming EMMs as a function of the parameter and at least one state parameter depending on a routine operation of the terminal ('530: col. 6, lines 25-65; '964: col. 19, lines 15-54) wherein the parameter is transmitted to each terminal in a dynamic data structure representing a logical control channel ('530: col. 6, lines 40-60), comprising at least one of the following fields: a first field configured to enable the terminal to identify the logical channel described by the structure ('530: logical control channel, col. 7, lines 35-40) and a second field configured to inform the terminal about a change to data and/or change to the dynamic data structure corresponding to the transmission of new data on the described channel such that the terminal adapts its filtering to retrieve the new data ('530: version number, col. 7, lines 5-15). It is observed that any techniques not explicitly disclosed by one reference cited above would be obvious improvements to a DVB system based on their disclosure in the other reference, as the techniques in question were clearly within the capabilities of a person of ordinary skill in the art, in view of the teaching of the techniques for improvement in related DVB systems.

Regarding claim 36:

Wasilewski further discloses wherein the dynamic data structure is transmitted in an encrypted EMM ('964: col. 8, lines 20-30).

Regarding claim 41:

Wasilewski further discloses wherein the data or services provided to terminals represent multimedia programs ('530: col. 4, lines 50-65; '964: col. 4, lines 10-30).

Regarding claim 42:

Wasilewski further discloses wherein the data and/or services provided to terminals represent audiovisual programs (Ibid).

Regarding claim 43:

Wasilewski further discloses wherein the EMM messages are transmitted in broadcast mode ('964: Ibid).

Regarding claim 44:

Wasilewski further discloses wherein the EMM messages are transmitted in connected mode ('964: col. 40, lines 25-30).

Regarding claims 45 and 46:

Wasilewski further discloses wherein the EMM messages are encapsulated in MPEG format ('964: col. 9, lines 18-33).

Regarding claims 49 and 50:

These claims are rejected for substantially similar reasons as per claim 35 above.

***Allowable Subject Matter***

5. Claims 37-40, 47, and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: Claims 37-40 elaborate on the structure and function of the optional third data field, which is not disclosed or suggested by the prior art of record. Claims 47 and 48 recite additional fields particular to the MPEG payload units which are also not disclosed nor suggested by the prior art of record.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Gyorfi whose telephone number is (571)272-3849. The examiner can normally be reached on 8:30am - 5:00pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAG  
2/17/09  
/Kimyen Vu/  
Supervisory Patent Examiner, Art Unit 2435